

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

AMENDMENTS TO LB 1

1           1. Insert the following new sections:

2           "Sec. 6. Section 86-1401, Reissue Revised Statutes of  
3 Nebraska, as amended by Laws 2002, LB 1105, section 194, is amended  
4 to read:

5           ~~86-1401.~~ Sections 194 to 207 of this act and sections 7,  
6 10, and 11 of this act shall be known and may be cited as the  
7 Nebraska Telecommunications Universal Service Fund Act.

8           Sec. 7. Every telecommunications company shall remit a  
9 universal service tax to the commission on a monthly basis or other  
10 reporting period as provided by the commission. The tax shall be  
11 imposed at a rate of six and ninety-five hundredths percent of the  
12 total intrastate retail revenue of such telecommunications company.

13          Sec. 8. Section 86-1402, Reissue Revised Statutes of  
14 Nebraska, as amended by Laws 2002, LB 1105, section 195, is amended  
15 to read:

16          ~~86-1402.~~ The ~~purpose~~ purposes of the Nebraska  
17 Telecommunications Universal Service Fund Act ~~is~~ are to (1)  
18 authorize the ~~commission~~ to establish a funding mechanism which  
19 supplements federal universal service support mechanisms and  
20 ensures that all Nebraskans, without regard to their location, have  
21 comparable accessibility to telecommunications services at  
22 affordable prices, (2) provide for a funding source for the Public  
23 Service Commission Litigation Reserve Cash Fund, and (3) provide a  
24 funding source for transfers to the General Fund as directed by the

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 Legislature.

2           Sec. 9.     Section 86-1405, Revised Statutes Supplement,  
3 2001, as amended by Laws 2002, LB 1105, section 202, and Laws 2002,  
4 LB 1211, section 13, is amended to read:

5           ~~86-1405.~~ (1) The Nebraska Telecommunications Universal  
6 Service Fund is hereby created. The fund shall contain proceeds of  
7 the surcharge and universal service tax imposed by the Nebraska  
8 Telecommunications Universal Service Fund Act. The fund shall  
9 provide the assistance necessary to make universal access to  
10 telecommunications services available to all persons in the state  
11 consistent with the policies set forth in the ~~Nebraska~~  
12 ~~Telecommunications Universal Service Fund Act~~ act and shall provide  
13 a funding source for transfers to the Public Service Commission  
14 Litigation Reserve Cash Fund and the General Fund as directed by  
15 the Legislature. ~~Only~~ For purposes of providing universal service  
16 (a) expenditures from the Nebraska Telecommunications Universal  
17 Service Fund shall be limited to sixty million dollars annually,  
18 (b) only eligible telecommunications companies designated by the  
19 commission shall be eligible to receive support to serve high-cost  
20 areas from the fund, (c) a ~~+~~ A telecommunications company that  
21 receives such support shall use that support only for the  
22 provision, maintenance, and upgrading of facilities and services  
23 for which the support is intended, and (d) any ~~+~~ ~~Any~~ such support  
24 should be explicit and sufficient to achieve the purpose of the  
25 act.

26           (2) Notwithstanding the provisions of section 25 of this  
27 act, in addition to other provisions of the act, and to the extent

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 not prohibited by federal law, the commission:

2 (a) Shall have authority and power to subject eligible  
3 telecommunications companies to service quality, customer service,  
4 and billing regulations. Such regulations shall apply only to the  
5 extent of any telecommunications services or offerings made by an  
6 eligible telecommunications company which are eligible for support  
7 by the fund. The commission shall be reimbursed from the fund for  
8 all costs related to drafting, implementing, and enforcing the  
9 regulations and any other services provided on behalf of customers  
10 pursuant to this subdivision;

11 (b) Shall have authority and power to issue orders  
12 carrying out its responsibilities and to review the compliance of  
13 any eligible telecommunications company receiving support for  
14 continued compliance with any such orders or regulations adopted  
15 pursuant to the act;

16 (c) May withhold all or a portion of the funds to be  
17 distributed from any telecommunications company failing to continue  
18 compliance with the commission's orders or regulations;

19 (d) Shall ~~require every telecommunications company to~~  
20 ~~contribute to any universal service mechanism established by the~~  
21 ~~commission pursuant to state law.~~ The commission shall require, as  
22 reasonably necessary, an annual audit of any telecommunications  
23 company to be performed by a third-party certified public  
24 accountant to insure the billing, collection, and remittance of a  
25 ~~surcharge for the~~ universal service tax. The costs of any audit  
26 required pursuant to this subdivision shall be paid by the  
27 telecommunications company being audited;

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1           (e) Shall require an audit of information provided by a  
2 telecommunications company to be performed by a third-party  
3 certified public accountant for purposes of calculating universal  
4 service fund payments to such telecommunications company. The  
5 costs of any audit required pursuant to this subdivision shall be  
6 paid by the telecommunications company being audited; ~~and~~

7           (f) May administratively fine pursuant to section 75-156  
8 any person who violates the Nebraska Telecommunications Universal  
9 Service Fund Act; and

10           (g) May revoke a certificate of convenience and necessity  
11 as a telecommunications common carrier or a permit as a  
12 telecommunications contract carrier for a violation of the act.

13           (3) Any money in the fund available for investment shall  
14 be invested by the state investment officer pursuant to the  
15 Nebraska Capital Expansion Act and the Nebraska State Funds  
16 Investment Act.

17           (4) Within five days after the effective date of this  
18 act, the State Treasurer shall transfer fifty million dollars from  
19 the fund to the Public Service Commission Litigation Reserve Cash  
20 Fund.

21           Sec. 10. (1) Any action for a claim that the surcharge  
22 assessed by the commission pursuant to the Nebraska  
23 Telecommunications Universal Service Fund Act is an illegal tax  
24 shall be commenced within six months after the effective date of  
25 this act for any such surcharge assessed prior to the effective  
26 date of such act.

27           (2) The Public Service Commission Litigation Reserve Cash

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 Fund is created. The fund shall consist of money transferred from  
2 the Nebraska Telecommunications Universal Service Fund pursuant to  
3 subsection (4) of section 9 of this act. Any money in the fund  
4 available for investment shall be invested by the state investment  
5 officer pursuant to the Nebraska Capital Expansion Act and the  
6 Nebraska State Funds Investment Act.

7 (3) The Public Service Commission Litigation Reserve Cash  
8 Fund shall be used: (a) For payment of litigation or settlement  
9 costs for an action described in subsection (1) of this section,  
10 (b) if no litigation is filed for an action described in subsection  
11 (1) of this section or upon final resolution of such litigation, as  
12 the Legislature directs, and (c) if as a result of the transfer  
13 from the Nebraska Telecommunications Universal Service Fund  
14 pursuant to subsection (4) of section 9 of this act there are  
15 insufficient funds in the Nebraska Telecommunications Universal  
16 Service Fund to cover universal service project applications, as a  
17 cash flow borrowing source for the Nebraska Telecommunications  
18 Universal Service Fund. Funds may be transferred from the Public  
19 Service Commission Litigation Reserve Cash Fund to the Nebraska  
20 Telecommunications Universal Service Fund on a temporary basis  
21 pursuant to subdivision (c) of this subsection if such transfers  
22 are not used to fund projects in excess of the annual  
23 sixty-million-dollar cap established in subdivision (1)(a) of  
24 section 9 of this act and such transfers are reversed and the  
25 Public Service Commission Litigation Cash Fund reimbursed as soon  
26 as practicable upon remittance of universal service taxes to the  
27 commission.

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1           Sec. 11. Except as otherwise provided by section 14 of  
2 this act, a telecommunications company may disconnect any  
3 telecommunications service of a customer for the nonpayment of the  
4 universal service tax imposed under the Nebraska Telecommunications  
5 Universal Service Fund Act.

6           Sec. 12. Section 86-1406, Reissue Revised Statutes of  
7 Nebraska, as amended by Laws 2002, LB 1105, section 203, is amended  
8 to read:

9           ~~86-1406.~~ (1) The commission shall determine the  
10 standards and procedures reasonably necessary, adopt and promulgate  
11 rules and regulations as reasonably required, and enter into such  
12 contracts with other agencies or private organizations or entities  
13 as may be reasonably necessary to efficiently ~~develop,~~ implement,  
14 and operate the fund.

15           (2) On or after the effective date of this act, any  
16 standards, procedures, rules, regulations, and contracts which  
17 applied to the universal service surcharge prior to the effective  
18 date of this act shall apply to the universal service tax imposed  
19 by section 7 of this act until otherwise changed by the commission.

20           Sec. 13. Section 86-1409, Reissue Revised Statutes of  
21 Nebraska, as amended by Laws 2002, LB 1105, section 206, is amended  
22 to read:

23           ~~86-1409.~~ ~~(1)~~ Annually the commission shall hold a public  
24 hearing to ~~determine~~ review the level of the fund necessary to  
25 carry out the Nebraska Telecommunications Universal Service Fund  
26 Act. The commission shall publish notice of the hearing in at  
27 least one newspaper of general circulation in the state at least

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 once each week for two consecutive weeks before the hearing. After  
2 the hearing, the commission shall report to the Legislature the  
3 level of the fund and make recommendations concerning the amount of  
4 tax required to maintain ~~determine the amount of~~ the fund for the  
5 following year, including a reasonable reserve. The commission  
6 shall recommend a tax in the amount required ~~In the initial year of~~  
7 ~~the fund's operation, the commission shall determine the amount of~~  
8 ~~the fund to be equivalent to the amount which, in the commission's~~  
9 ~~judgment, after careful analysis, is necessary to keep~~  
10 approximately ninety-six percent of Nebraska households subscribed  
11 to local telecommunications service.

12 ~~(2) In an emergency as determined by the commission, the~~  
13 ~~commission may adjust the level of the fund, but only after a~~  
14 ~~public hearing for such purpose.~~

15 Sec. 14. Section 86-1410, Reissue Revised Statutes of  
16 Nebraska, as amended by Laws 2002, LB 1105, section 207, is amended  
17 to read:

18 ~~86-1410.~~ (1) The commission shall establish the Nebraska  
19 Lifeline Service Program. The purpose of the Nebraska Lifeline  
20 Service Program shall be to promote the provision of universal  
21 service to low-income households by local exchange carriers.  
22 Support provided by the program shall be specifically targeted to  
23 maintain affordable rates for residential basic local exchange  
24 services supported by federal and state universal service  
25 mechanisms. The commission shall establish means-tested  
26 eligibility guidelines and standards for the provision of support  
27 from the Nebraska Lifeline Service Program which are consistent

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 with the Telecommunications Act of 1996 and 47 C.F.R. 54.400  
2 through 54.409, as such act and regulations existed on January 1,  
3 2002.

4 (2) Any local exchange carrier receiving state universal  
5 service support shall be prohibited from disconnecting the basic  
6 local exchange service of any customer receiving low-income support  
7 from the Nebraska Lifeline Service Program for the nonpayment of  
8 any interexchange toll service charges. The commission may grant  
9 limited waivers of this requirement in a manner consistent with 47  
10 C.F.R. 54.400 through 54.409, as such regulations existed on  
11 January 1, 2002.

12 (3) Any person receiving low-income support from the  
13 Nebraska Lifeline Service Program shall be exempt from the payment  
14 of any ~~surcharge established by the commission pursuant to~~  
15 universal service tax under the Nebraska Telecommunications  
16 Universal Service Fund Act.

17 Sec. 15. Laws 2002, LB 1211, section 8, is amended to  
18 read:

19 Sec. 8. Notwithstanding the provisions of section  
20 86-808:

21 (1) A wireless carrier providing telecommunications  
22 service in Nebraska shall file a registration form with and pay a  
23 registration fee to the Public Service Commission. A wireless  
24 carrier which provided such telecommunications service prior to  
25 January 1, 2003, and which continues to provide such  
26 telecommunications service on and after January 1, 2003, shall  
27 register with the commission prior to April 1, 2003. Any wireless



AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 carrier which begins to provide telecommunications service in  
2 Nebraska on or after January 1, 2003, shall register with the  
3 commission prior to providing such telecommunications service;

4 (2) The commission shall prescribe the registration form.  
5 It shall include:

6 (a) The name, address, telephone number, and email  
7 address of a contact person concerning the Nebraska  
8 Telecommunications Universal Service Fund Act and related  
9 ~~surcharges~~ taxes, if applicable;

10 (b) The name, address, telephone number, and email  
11 address of a contact person concerning the Telecommunications Relay  
12 System Act and related surcharges, if applicable;

13 (c) The name, address, telephone number, and email  
14 address of a contact person concerning sections 86-2201 to 86-2214  
15 and related surcharges, if applicable; and

16 (d) The name, address, telephone number, and email  
17 address of a contact person concerning consumer complaints and  
18 inquiries;

19 (3) The wireless carrier shall submit a registration fee  
20 with the registration form. The commission shall set the fee by  
21 rule and regulation in an amount sufficient to cover the costs of  
22 administering the registration process but not to exceed fifty  
23 dollars;

24 (4) The wireless carrier shall keep the information  
25 required by this section current and shall notify the commission of  
26 any changes to such information within sixty days after the change;

27 (5) The commission may administratively fine pursuant to

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 section 75-156 any wireless carrier which violates this section;  
2 and

3 (6) For purposes of this section, wireless carrier means  
4 any person offering mobile radio service, radio paging service, or  
5 wireless telecommunications service for a fee in Nebraska  
6 intrastate commerce.

7 Sec. 16. Laws 2002, LB 947, section 1, is amended to  
8 read:

9 Section 1. (1) For mobile telecommunications service  
10 provided and billed to a customer by a home service provider for  
11 any billing period ending on or after August 1, 2002:

12 (a) Notwithstanding any other provision of law or any  
13 local ordinance or resolution, such mobile telecommunications  
14 service is deemed to be provided by the customer's home service  
15 provider;

16 (b) All taxable charges for such mobile  
17 telecommunications service shall be subject to tax by the state or  
18 other taxing jurisdiction in this state whose territorial limits  
19 encompass the customer's place of primary use regardless of where  
20 the mobile telecommunications service originates, terminates, or  
21 passes through; and

22 (c) No taxes, charges, or fees may be imposed on a  
23 customer with a place of primary use outside this state.

24 (2) In accordance with the federal Mobile  
25 Telecommunications Sourcing Act, as such act existed on the  
26 effective date of this act, the Tax Commissioner may, but shall not  
27 be required to:

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1           (a) Provide or contract for a tax assignment data base  
2 based upon standards identified in 4 U.S.C. 119, as such section  
3 existed on the effective date of this act, with the following  
4 conditions:

5           (i) If such data base is provided, a home service  
6 provider shall be held harmless for any tax that otherwise would  
7 result from any errors or omissions attributable to reliance on  
8 such data base; or

9           (ii) If such data base is not provided, a home service  
10 provider may rely on an enhanced zip code for identifying the  
11 proper taxing jurisdictions and shall be held harmless for any tax  
12 that otherwise would result from any errors or omissions  
13 attributable to reliance on such enhanced zip code if the home  
14 service provider identified the taxing jurisdiction through the  
15 exercise of due diligence and complied with any procedures that may  
16 be adopted by the Tax Commissioner. Any such procedure shall be in  
17 accordance with 4 U.S.C. 120, as such section existed on the  
18 effective date of this act; and

19           (b) Adopt procedures for correcting errors in the  
20 assignment of primary use that are consistent with 4 U.S.C. 121, as  
21 such section existed on the effective date of this act.

22           (3) If charges for mobile telecommunications service that  
23 are not subject to tax are aggregated with and not separately  
24 stated on the bill from charges that are subject to tax, the total  
25 charge to the customer shall be subject to taxation unless the home  
26 service provider can reasonably separate charges not subject to  
27 taxation using the records of the home service provider that are

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 kept in the regular course of business.

2 (4) For purposes of this section:

3 (a) Customer means an individual, business, organization,  
4 or other person contracting to receive mobile telecommunications  
5 service from a home service provider. Customer does not include a  
6 reseller of mobile telecommunications service or a serving carrier  
7 under an arrangement to serve the customer outside the home service  
8 provider's service area;

9 (b) Home service provider means a telecommunications  
10 company as defined in section 86-1403 that has contracted with a  
11 customer to provide mobile telecommunications service;

12 (c) Mobile telecommunications service means a wireless  
13 communication service carried on between mobile stations or  
14 receivers and land stations, and by mobile stations communicating  
15 among themselves, and includes: (i) Both one-way and two-way  
16 wireless communications services; (ii) a mobile service which  
17 provides a regularly interacting group of base, mobile, portable,  
18 and associated control and relay stations, whether on an  
19 individual, cooperative, or multiple basis for private one-way or  
20 two-way land mobile radio communications by eligible users over  
21 designated areas of operation; and (iii) any personal  
22 communications service;

23 (d) Place of primary use means the street address  
24 representative of where the customer's use of mobile  
25 telecommunications service primarily occurs. The place of primary  
26 use must be the residential street address or the primary business  
27 street address of the customer and must be within the service area

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

1 of the home service provider; and

2 (e) Tax means the sales taxes levied under sections  
3 13-319, 77-2703, and 77-27,142, the universal service tax levied  
4 under the Nebraska Telecommunications Universal Service Fund Act,  
5 the surcharges levied under ~~the Nebraska Telecommunications~~  
6 ~~Universal Service Fund Act,~~ the Telecommunications Relay System  
7 Act, and sections 86-2201 to 86-2214, and any other tax levied  
8 against the customer based on the amount charged to the customer.  
9 Tax does not mean an income tax, property tax, franchise tax, or  
10 any other tax levied on the home service provider that is not based  
11 on the amount charged to the customer.

12 Sec. 17. Laws 2001, LB 543, section 56, is amended to  
13 read:

14 Sec. 56. AGENCY NO. 14 -- PUBLIC SERVICE COMMISSION

15 Program No. 686 - Nebraska Telecommunications Universal  
16 Service Fund

	FY2001-02	FY2002-03
17 CASH FUND	64,364,194	68,374,163
18 PROGRAM TOTAL	64,364,194	68,374,163
19 CASH FUND	64,364,194	60,374,163
20 PROGRAM TOTAL	64,364,194	60,374,163
21 SALARY LIMIT	155,137	160,276

22 There is included in the appropriation to this program  
23 for FY2001-02 \$64,000,000 Cash Funds for state aid, which shall  
24 only be used for such purpose. There is included in the  
25 appropriation to this program for FY2002-03 ~~\$68,000,000~~ \$60,000,000  
26 Cash Funds for state aid, which shall only be used for such  
27

AM9100  
LB 1  
CAS-08-12

AM9100  
LB 1  
CAS-08-12

- 1 purpose.".
- 2 2. Renumber the remaining sections and correct the
- 3 repealer accordingly.